IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1125 OF 2005

A.R.Sampatkumar ..Petitioner.

Vs.

The Mysore CHS Ltd. & Ors. ..Respondents.

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Mr.M.N.Morje for the Petitioner.

Ms.R.S.Peerbhoy for Respondent No.1.

Mr.A.D.Chandar Bose for Respondent Nos.2 and 3.

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CORAM : DR.D.Y.CHANDRACHUD, J.

31st August, 2005.

P.C. :

Dr.Gopal Ayengar was a member of the First Respondent and in that capacity was the holder of Plot No.73 upon which he had constructed a bungalow. Dr.Ayengar expired in September 1992 leaving behind him his widow Rajalaxmi who expired in 2002. The dispute in the present case is

between the Petitioner who claims to be the nephew (brother's son) and the Second Respondent who claims to be the grandson of the maternal uncle of Mrs.Rajalaxmi Ayengar. After the death of Dr.Gopal Ayengar his widow had called upon the administrator to record a nomination in favour of the Second Respondent. Section 30 of the Maharashtra Co-operative Societies Act 1960 provides that on the death of a member of the society, the society shall transfer the share or interest of the deceased member to a person or persons nominated in accordance with the rules or if no person has been nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member. A mere nomination however, does not confer title or ownership. The nominee is liable to account to a person who has title or ownership, on the basis of an adjudicated claim. The Co-operative Appellate Court is not in error in holding that the society was justified in acting in pursuance of the nomination made having regard to the provisions of Section 30. The Petitioner is entitled to pursue his remedies in law for the purposes of establishing his title or ownership in

respect of the property in dispute. In these circumstances, the order of the Co-operative Appellate Court does not call for any interference. The Petition is accordingly rejected.

Counsel appearing on behalf of the First Respondent undertakes to furnish inspection of the complete record as directed by the Co-operative Appellate Court in any event within a period of one week from today.